



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2019-0621; FRL-10015-23-Region 8]

Approval and Promulgation of Implementation Plans; Utah; Regional Haze 5-Year Progress Report State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a regional haze progress report State Implementation Plan (SIP) revision submitted by the State of Utah on March 7, 2016. The revision addresses the requirements for states to submit periodic reports describing progress toward reasonable progress goals established for regional haze and a determination of adequacy of the State's regional haze SIP. The EPA is taking this action pursuant to section 110 of the Clean Air Act (CAA).

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2019-0621. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>,

or please email the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Jaslyn Dobrahner, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, (303) 312-6252, dobrahner.jaslyn@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

Under the Regional Haze Rule, states are required to submit progress reports that evaluate progress towards the reasonable progress goals for each mandatory federal Class I area within the state and in each Class I area outside the state that may be affected by emissions from within the state.¹ In addition, the provisions also require states to submit, at the same time as the progress report, a determination of the adequacy of the state’s existing regional haze plan. The first progress report must be in the form of a SIP revision and is due 5 years after submittal of the initial regional haze SIP.

On March 7, 2016, Utah submitted a Progress Report SIP revision which: (1) detailed the progress made toward achieving progress for improving visibility at Class I areas;² and (2)

¹ 40 CFR 51.309(d)(10).

² 42 U.S.C. 7491(a). Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). In accordance with section 169A of the CAA, the EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. 42 U.S.C. 7472(a). Although states and tribes may designate as Class I additional areas whose visibility they consider to be an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to

declared a determination of adequacy of the State’s regional haze plan to meet reasonable progress goals.

On June 16, 2020, the EPA published a proposed rulemaking titled “Approval and Promulgation of Implementation Plans; Utah; Regional Haze 5-Year Progress Report State Implementation Plan” proposing to approve Utah’s Progress Report SIP revision.³ The rationale for the EPA’s proposed action is explained in the proposed rulemaking and will not be restated here. The EPA is finalizing its proposed approval of the Progress Report as meeting the applicable regional haze requirements set forth in 40 CFR 51.309(d)(10).

II. Response to Comments

We received three comments on our proposed rulemaking during the public comment period. The EPA determined that some of these comments, or portions thereof, are outside the scope of our proposed action and fail to identify any material issue necessitating a response.

Comment: The commenter stated that part of the approval is based on 7-year old data noting that key visibility metrics described previously show improvement in visibility conditions between the baseline (2000-2004) and current conditions (2009-2013).

Response: We agree with the commenter that Utah provided data from 2009-2013 (current period) to compare visibility progress with the 2000-2004 (baseline period). The Regional Haze Rule required that the first progress reports be submitted in 2013 and include an assessment of changes in visibility conditions between the baseline period and the “past five

“mandatory Class I Federal areas.” Each mandatory Class I Federal area is the responsibility of a “Federal Land Manager.” 42 U.S.C. 7602(i). When we use the term “Class I area” in this section, we mean a “mandatory Class I Federal area.”

³ 85 FR 36359 (June 16, 2020).

years.”⁴ Additionally, the EPA’s April 2013 General Principles for the 5-Year Regional Haze Progress Reports for the Initial Regional Haze State Implementation Plans states that “[f]or ‘current visibility conditions,’ the reports should include the 5-year average that includes the most recent quality assured public data available at the time the state submits its 5-year progress report for public review.”⁵ Thus, Utah’s report, which was submitted for public review in 2014 and to the EPA in 2016,⁶ appropriately compared 2009-2013 data to the baseline period. Additionally, we note that Utah’s progress report and the proposed rule also assessed Utah’s progress in comparison to the Western Regional Air Partnership (WRAP) 2018 Preliminary Reasonable Progress projections.⁷

Comment: The commenter argues that private universities have CO₂ emissions and should be regulated. In addition, the commenter states that the definition of haze should be broadened to include light emissions.

Response: This action is limited to the visibility impairing pollutants that Utah considered during the initial 10-year regional haze implementation period as required for regional haze progress reports, which included sulfur dioxide (SO₂), nitrogen oxides (NO_x), and particulate matter (PM).⁸ Therefore, an EPA assessment of CO₂ and anthropogenic light emissions is beyond the scope of this action as CO₂ and anthropogenic light emissions are not included in Utah’s initial regional haze SIP.

⁴ 40 CFR 51.309(d)(10), (d)(10)(C).

⁵ U.S. EPA, *General Principles for the 5-Year Regional Haze Progress Reports for the Initial Regional Haze State Implementation Plans* (Intended to Assist States and EPA Regional Offices in the Development and Review of the Progress Reports), page 7, April 2013.

⁶ Utah Progress Report, page 2 (Certification).

⁷ See 85 FR 36364-68.

⁸ See 40 CFR 51.309(d)(10).

Comment: The commenter expressed support for the rulemaking and noted that reductions in visibility impairing emissions will benefit people residing in Utah, as well as the entire ecosystem.

Response: We acknowledge the commenter's support for this action.

III. Final Action

The EPA is finalizing approval of Utah's March 7, 2016, Regional Haze Progress Report as meeting the applicable regional haze requirements set forth in 40 CFR 51.309(d)(10).

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Utah State Air Quality Rules described in amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 8 Office (please email the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.⁹

V. Statutory and Executive Order Reviews

⁹ 62 FR 27968 (May 22, 1997).

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 28, 2020.

Gregory Sopkin,
Regional Administrator,
Region 8.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart TT—Utah

2. In §52.2320:

a. The table in paragraph (c) is amended by adding the entry “R307-110-28” in numerical order.

b. The table in paragraph (e) is amended by adding the entry “Progress Report for Utah’s State Implementation Plan for Regional Haze” at the end of the section under the center heading “XVII. Visibility Protection”.

The additions read as follows:

§52.2320 Identification of plan.

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(c) * * *

Rule No.	Rule title	State effective date	Final rule citation, date	Comments
* * * * *				
R307-110. General Requirements: State Implementation Plan				
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R307-110-28	Section XX. Regional Haze	2/4/2016	[insert Federal Register citation], [insert the date of publication in the Federal Register]	
* * * * *				

(e)***

Rule title	State effective date	Final rule citation, date	Comments

XVII. Visibility Protection			

Progress Report for Utah's State Implementation Plan for Regional Haze	2/4/2016	[insert Federal Register citation], [insert the date of publication in the Federal Register]	

[FR Doc. 2020-21813 Filed: 10/8/2020 8:45 am; Publication Date: 10/9/2020]